

S.B.Cr.Misc. II Bail App. No.5328/2007
(Shiv Das Singh @ Lillu Bana Vs. State)

Date of order : 13.11.2007

HON'BLE MR.H.R.PANWAR, J.

Mr. B.S. Rathore for the petitioner.

Mr. Ashok Upadhyay, Public Prosecutor.

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned as well as the challan papers.

It is contended by learned counsel for the petitioner that the allegation against the petitioner in the FIR and in the statements of two eye witnesses namely Kumari Pintu and Deepu are almost identical as against co-accused Girdhari Singh and Mahaveer Singh, who have not been challaned by the police and negative final report has been filed against them. He submits that the case of the present petitioner is not distinguishable from those co-accused who have been left by the police. He further submits that other co-accused namely Devi Singh and Bhanwar Singh have been released on bail are enmical with the petitioner and they deliberately have not been appearing before the trial court on the date fixed by the trial court, therefore, the trial of the case has not proceeded. Before the trial court on 17.10.2007, the matter was fixed for framing of charges but co-accused Devi Singh and Bhanwar Singh, who are on bail did not appear on that date and the

matter was posted to 25.10.2007. On 25.10.2007, both the accused did not appear and the matter was posted to 30.10.2007. Yet, again on the date fixed ie. 30.10.2007, the accused did not appear and the matter was posted to 06.11.2007. Again, on 06.11.2007, the accused did not appear. This shows that co-accused Devi Singh and Bhanwar Singh are deliberately avoiding to appear before the trial court being on bail. The trial court was directed to procure their presence and proceed with the trial of the case inspite of the direction the trial court has not secured the presence of the accused namely Devi Singh and Bhanwar Singh. The allegation against the petitioner in the FIR and in statements of two eye witnesses are almost similar to the co-accused Girdhari Singh and Mahaveer Singh, who have not been challaned by the police and other similarly situated co-accused have already been released on bail.

Looking to the facts and circumstances of the case and the fact that the co-accused have been absconding and the trial is not likely to proceed, therefore, without expressing any opinion on the merit of the case and having considered the oral arguments advanced by both the parties, I think it just and proper to enlarge the accused petitioner on bail.

Accordingly, this bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that petitioner Shiv Das Singh @ Lillu Bana s/o Daulat Singh be released on bail in FIR No.90/2002 P.S. Gottan, District Nagaur, provided he executes a personal bond for a sum of

Rs.20,000/- with two sound and solvent sureties in the sum of Rs.10,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R.PANWAR), J.

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